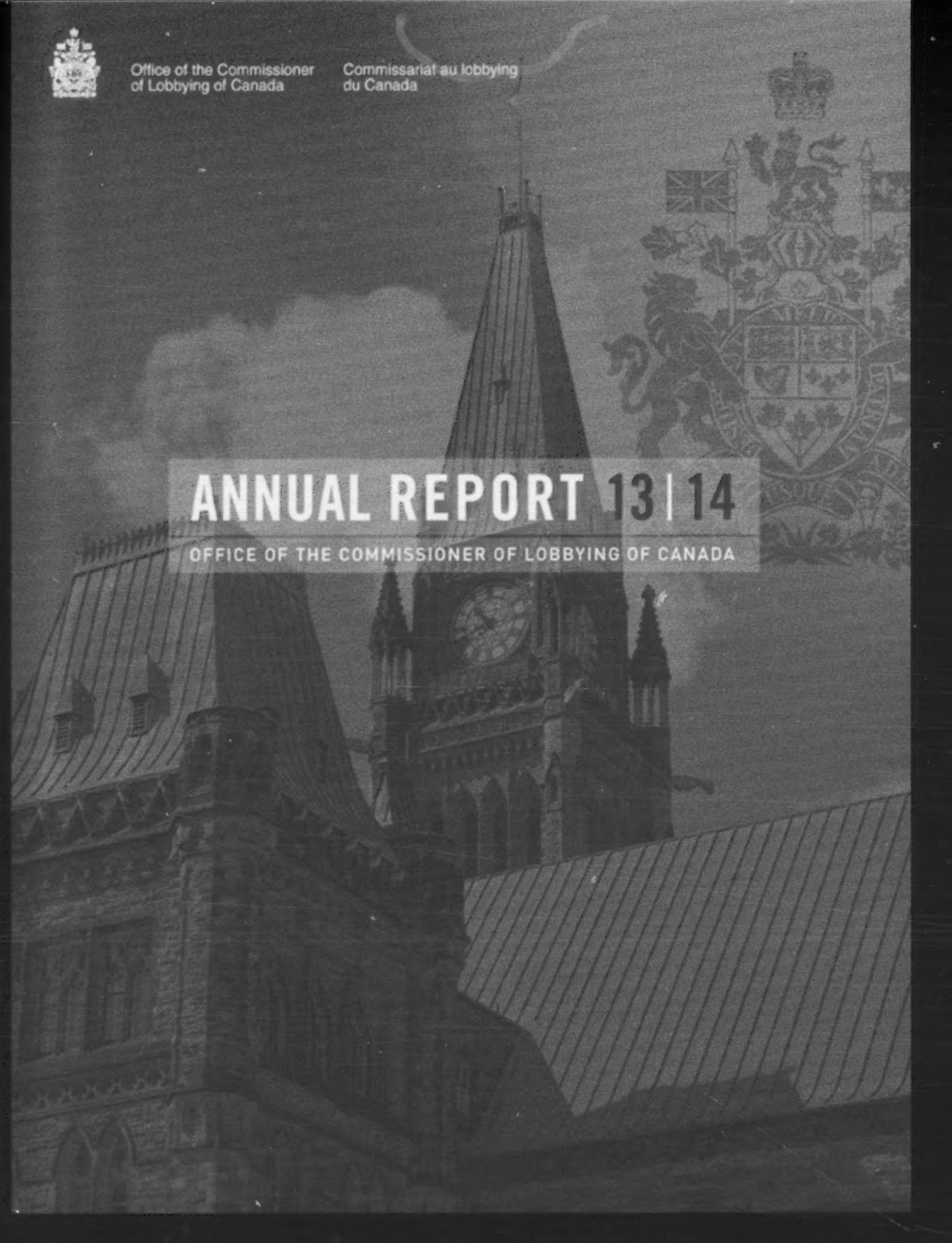

Office of the Commissioner of Lobbying of Canada

Commissariat au lobbying du Canada

ANNUAL REPORT 13|14

OFFICE OF THE COMMISSIONER OF LOBBYING OF CANADA

For a print copy of this publication, please contact:

Office of the Commissioner of Lobbying of Canada
255 Albert Street, 10th Floor
Ottawa, Ontario K1A 0R5

Tel: 613-957-2760
Fax: 613-957-3078
Email: **QuestionsLobbying@ocl-cal.gc.ca**

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Free and open access to government is an important matter of public interest.

Lobbying public office holders is a legitimate activity.

It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.

A system for the registration of paid lobbyists should not impede free and open access to government.

Commissioner of Lobbying Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Noël A. Kinsella
Speaker of the Senate
The Senate
Ottawa, Ontario
K1A 0A4

Dear Mr. Speaker:

Pursuant to section 11 of the *Lobbying Act*, I have the honour of presenting to you the sixth annual report of the Commissioner of Lobbying for tabling in the Senate.

This report covers the fiscal year ending March 31, 2014.

Sincerely yours,

Karen E. Shepherd

Commissioner of Lobbying Commissaire au lobbying

Ottawa, Canada K1A 0R5

The Honourable Andrew Scheer, M.P.
Speaker of the House of Commons
Room 316-N, Centre Block
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. Speaker:

Pursuant to section 11 of the *Lobbying Act*, I have the honour of presenting to you the sixth annual report of the Commissioner of Lobbying for tabling in the House of Commons.

This report covers the fiscal year ending March 31, 2014.

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MESSAGE FROM THE COMMISSIONER OF LOBBYING

I am pleased to present the Annual Report for the Office of the Commissioner of Lobbying for 2013–14. This report highlights the main accomplishments of my organization in helping me deliver on my mandate.

My mandate is stated in the *Lobbying Act* and covers three areas of activity: maintaining a registry of lobbyists that is accessible to Canadians; fostering greater awareness of the requirements of the *Lobbying Act* through education and outreach; and ensuring compliance with the legislation and the *Lobbyists' Code of Conduct*.

The Registry of Lobbyists is the primary source of information on who is lobbying federal public office holders and about which topics. It plays a key role in fostering the transparency and accountability of government decision-making. Since I became Commissioner, several aspects of the Registry have been improved, which make it easier for lobbyists to use and for Canadians to find information on lobbying.

In 2013–14, new information products were developed in collaboration with our stakeholders, including new online tools that were made available to lobbyists to help with the registration process.

My staff and I regularly reach out to lobbyists, federal officials, and others to explain the requirements of the *Lobbying Act* and the *Lobbyists' Code of Conduct*. This year, I participated in two international fora to present the Canadian experience with respect to lobbying. I attended the Forum on Transparency and Integrity in Lobbying, which was organized by the Organisation for Economic Co-operation and Development (OECD). I also participated in the annual conference of the Council on Governmental Ethics Law.

In July 2013, there was a historic first conviction for a breach of the *Lobbying Act*, specifically for failure to register as a consultant lobbyist. The conviction resulted in a fine of $7,500. Following the conviction, I used my authority under the *Lobbying Act* to prohibit the individual from lobbying for a period of four months. I believe the conviction and the subsequent prohibition send the message to anyone involved in lobbying the federal government that contravening the Act carries consequences.

Beginning in 2013–14, my Office's budget was reduced by five percent. I minimized the impact of this budget reduction by deferring development of the registration system and by limiting the use of external consultants. Maintenance of the registration system continues to be a priority.

As my Office continues to mature, our efforts to streamline operations have yielded results in terms of greater efficiency. Improved business planning and efficient use of limited resources have mitigated the impact of fiscal constraints and cost containment in recent years. With the potential for increased budget pressures, I believe that my organization is in good stead to continue to deliver on my mandate.

In September 2013, I launched a public consultation to help me determine whether amendments to the *Lobbyists' Code of Conduct* were warranted. The Code was published in 1997 and has remained unchanged. Based on my experience in administering it, I believed that it was time to review the Code and make sure that it was clear to lobbyists in terms of guiding their behaviour. My objective is to ensure the Code continues to reflect the high ethical standards that Canadians expect of lobbyists.

In order to facilitate the consultation process, I posted a discussion paper on my website which posed 10 questions organized under four general themes. The paper was intended to help focus the discussion about the *Lobbyists' Code of Conduct*. Stakeholders were asked to comment on the paper and any other area they felt required consideration. I am pleased to report that 19 written submissions were received from lobbyists, public office holders, academics and other stakeholders. These submissions are available on my website. Five roundtable discussions were also organized to gather the views from lobbyists, public office holders, lobbying regulators from other jurisdictions, and other stakeholders.

The results of the consultation have been incorporated into a report that was published in May 2014 and is available on my website. In deciding on amendments to the *Lobbyists' Code of Conduct*, I will consider the comments I heard during the consultation and my own experience in administering the Code. I intend to develop a revised Code during the summer. I will launch a second consultation in the fall to solicit the views of stakeholders.

I would like to take this opportunity to acknowledge the dedication of my staff and to thank them for all that we have accomplished this year. They continue to surpass expectations in finding innovative ways to help me deliver on my mandate in the most efficient manner.

Karen E. Shepherd
Commissioner of Lobbying

FOSTERING TRANSPARENT LOBBYING ACTIVITIES

The *Lobbying Act* (the Act) gives the Commissioner of Lobbying a mandate to establish and maintain a Registry of Lobbyists (the Registry) through which individuals, corporations and organizations must publicly disclose their lobbying activities. A publicly available registry, which is updated in a timely manner, and is easy to use and understand, ensures greater transparency of lobbying activities. The Registry enables public office holders and the public to see who is lobbying which federal official and what bills, regulations, policies and programs are the subjects of the lobbying activity.

The Registry is accessible online on the Office of the Commissioner of Lobbying (OCL) website. It is free to consult and there is no charge to lobbyists to register.

In addition to the names of lobbyists, the Registry includes information about:

- the federal institutions being lobbied;
- the name of the organizations or corporations, including the parent and subsidiary companies or corporations, that benefit from the lobbying activities;
- the list of organizations that are members of coalition groups represented by lobbyists;
- the subject matters of lobbying activities, including the legislative proposals, bills, regulations, policies, programs discussed, and grants, contributions and/or contracts sought;
- the government funding received;
- the federal public offices previously held by the lobbyists; and
- certain oral and arranged communications with designated public office holders.

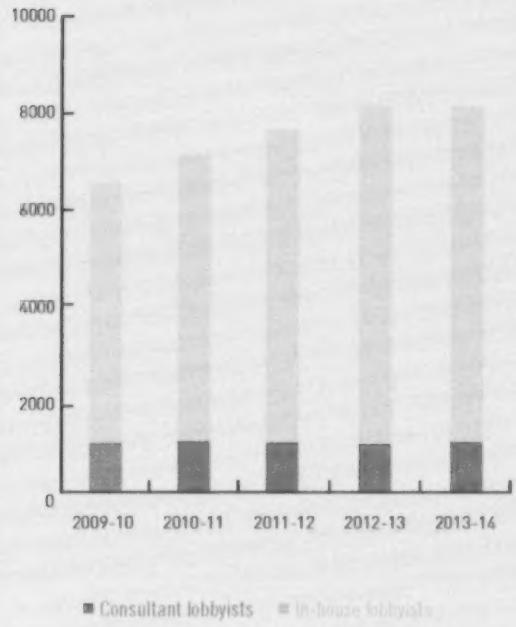
NUMBERS OF REGISTRANTS AND REGISTRATIONS

Throughout 2013–14, the number of lobbyists listed in the Registry at any given point remained stable. The total number did not vary more than four percent during the fiscal year. Monthly samples of the Registry show the number of lobbyists ranging from a high of 5,258 at the beginning of October 2013 to a low of 5,050 at the beginning of January 2014. In-house lobbyists employed by not-for-profit organizations represented the largest group of lobbyists, followed by in-house lobbyists employed by for-profit corporations. Consultant lobbyists – individuals who communicate on behalf of clients – represented the smallest proportion of registered lobbyists.

The number of lobbyists has not changed significantly over the past five years. However, lobbyists come and go in the Registry, with consultant lobbyists, organizations and corporations regularly filing or terminating registrations, and updating the list of employees who lobby as their business changes.

New data measurement techniques show that the total number of lobbyists who were listed in active registrations during the year has increased from less than 6,900 in 2009–10 to 8,500 in 2013–14. Figure 1 indicates that the number of consultant lobbyists, in any given year, has remained constant at around 1,100. The real growth in registered lobbyists over the past five years is seen in the in-house category.

FIGURE 1: TOTAL NUMBER OF ACTIVE LOBBYISTS DURING THE FISCAL YEAR



Consultant lobbyists account for the highest number of registrations, followed by in-house lobbyists for organizations and, lastly, by in-house lobbyists for corporations. Consultant lobbyists must file one registration for each client, so it is not uncommon for a consultant lobbyist to have several active registrations at once. On average, a consultant lobbyist had 2.7 active registrations in 2013-14. In the case of in-house lobbyists, there is only one registration for each organization or corporation, filed by the most senior paid officer of the organization or corporation (usually the president or chief executive officer). The number of registrations active at any given time has remained stable over the last five years, at around 2,900. As of March 31, 2014, there were 2,935 active registrations in the Registry of Lobbyists, 2,144 filed by consultant lobbyists, 489 by organizations, and 302 by corporations.

DISCLOSURE REQUIREMENTS

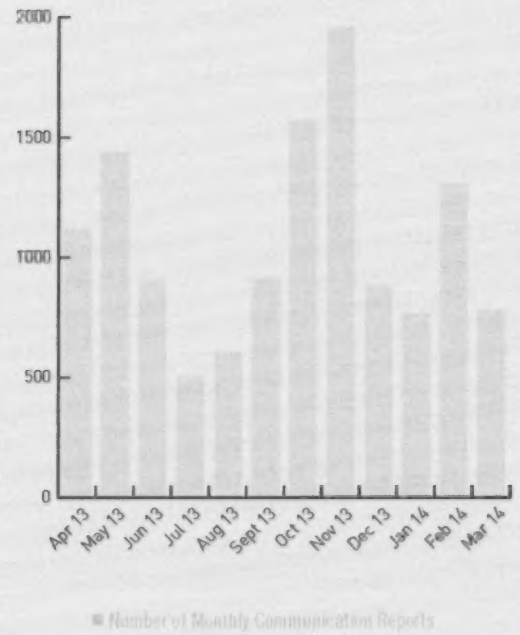
Lobbyists must file a registration to disclose their lobbying activities. They must also keep the information in their registration up to date, including when lobbying activities have terminated. When required, registrations must be amended by the 15th day of the following month.

The designated public office holder (DPOH) category was introduced by the *Lobbying Act* in 2008. It is a sub-category of public office holders that includes senior government officials such as the Prime Minister and his staff, ministers and their staff, deputy ministers, associate and assistant deputy ministers, as well as members of Parliament and senators.

The *Lobbying Act* requires lobbyists to file a monthly communication report when oral and arranged communication takes place with a designated public office holder. These communications include telephone calls, in-person meetings and video-conferences. These reports are published in the Registry and provide information about communications between lobbyists and senior federal government decision-makers, including the date of the communication, the name of the designated public office holder(s) present and the subject matter discussed.

In most cases, oral communications with a designated public office holder must be reported when initiated by someone other than a public office holder and when they are arranged in advance. A communication initiated by a public office holder is not required to be reported by the lobbyist unless it relates to the awarding of a contract (consultant lobbyists only), a grant, a contribution or any other financial benefit.

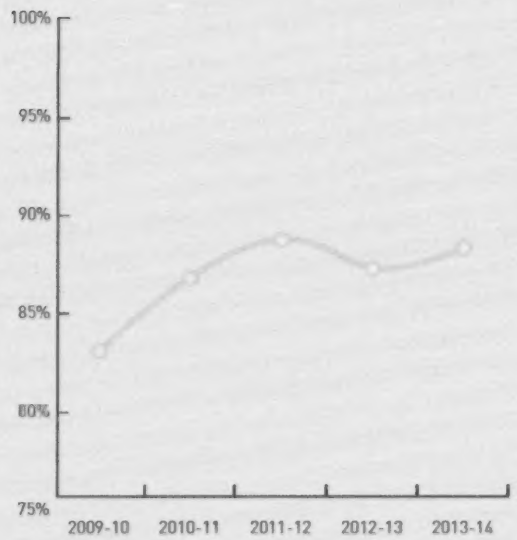
FIGURE 2: MONTHLY COMMUNICATION REPORTS FOR 2013-14



Monthly communication reports must be filed by the 15th of the month after the month in which the communication took place. For example, if a registered lobbyist communicates orally with a designated public office holder on a registrable subject on any day during the month of May, a communication report on that interaction would be due by June 15.

In 2013-14, my Office undertook an in-depth review of the timeliness of monthly communication reports. Of 12,186 communication reports filed in 2013-14, 88.1 percent (10,731) were filed within the timelines prescribed in the *Lobbying Act* and 11.9 percent (1,455) were filed late. Although it was determined that more than half of the late reports were filed within 15 days of the deadline, I believe that any late reporting of communication hinders transparency and should be addressed. As a result, in 2014-15 I will implement a number of education measures in an effort to reduce late reporting.

FIGURE 3: PERCENTAGE OF TIMELY MONTHLY COMMUNICATION REPORTS BY FISCAL YEAR



In 2013-14, statistics in the Registry revealed that the government institution that appeared most often in monthly communication reports was the House of Commons. Approximately a third of the monthly communication reports filed were for oral and arranged communications with members of Parliament.

TABLE 1: TOP 10 GOVERNMENT INSTITUTIONS IN MONTHLY COMMUNICATION REPORTS FOR 2013-14

GOVERNMENT INSTITUTION	NUMBER OF MONTHLY COMMUNICATION REPORTS
House of Commons	3,911
Industry Canada	1,079
Foreign Affairs, Trade and Development Canada	926
Finance Canada	897
Natural Resources Canada	578
Prime Minister's Office	531
Transport Canada	489
Senate of Canada	399
Employment and Social Development Canada	349
Environment Canada	331

TABLE 2: TOP 10 SUBJECT MATTERS IN MONTHLY COMMUNICATION REPORTS FOR 2013-14

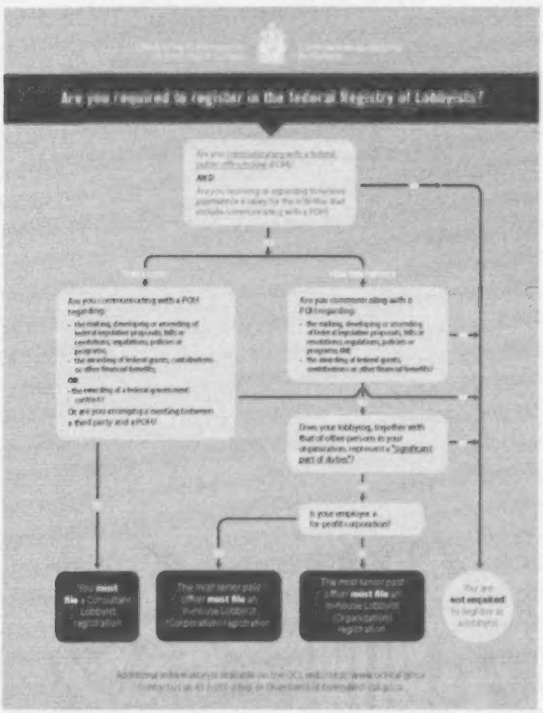
SUBJECT MATTER	NUMBER OF MONTHLY COMMUNICATION REPORTS
Industry	1,918
International Trade	1,509
Health	1,251
Environment	1,230
Energy	1,149
Transportation	1,055
Taxation and Finance	875
Agriculture	859
Science and Technology	821
Telecommunications	682

NEW TOOLS FOR LOBBYISTS

My Office implemented three new tools for lobbyists in 2013-14. These tools were developed with the assistance of an advisory group made up of representatives of lobbyists.

1. Do I need to register?

The first new tool is a flowchart that walks potential lobbyists through a series of questions about their activities and helps them decide whether they need to register.



The flowchart is available in an accessible format on the OCL website. It may also be downloaded as a PDF and printed. This tool was tested with potential lobbyists in March 2014 and was received positively.

2. Frequently Asked Questions for lobbyists

My Office also developed a set of Frequently Asked Questions (FAQs) for lobbyists. These questions and answers provide lobbyists and potential lobbyists with information to understand key features and requirements of the *Lobbying Act*. Answers have been tailored to specific audiences and situations.

For instance, the document has separate sections dedicated to consultant lobbyists, in-house lobbyists (corporations) and in-house lobbyists (organizations).

3. Annotated *Lobbying Act*

An annotated *Lobbying Act* was compiled as an aid to lawyers, lobbyists, potential lobbyists, and other stakeholders interested in the subject.

The annotated Act provides explanations and references dealing with specific provisions of the *Lobbying Act*. It includes references to advisory opinions and interpretation bulletins issued by the Commissioner, as well as to the *Lobbyists Registration Regulations* and the *Designated Public Office Holder Regulations*. The annotated Act offers additional definitions and clarifications of terms used in the *Lobbying Act*.

Although the annotated *Lobbying Act* is not intended as a substitute for legal advice and has no official sanction, I hope that it will assist lobbyists and potential lobbyists in understanding the requirements of the legislation. It is available on the OCL website.

The official version of the *Lobbying Act* is available on the Laws website of the Department of Justice.

LEVERAGING IMPROVED SEARCH AND REPORTING TOOLS

Late in the previous fiscal year, I launched improved search and reporting tools designed to make it easier for Canadians to find information in the Registry. These new tools have made it easier for users to customize queries in the Registry in ways that were not possible before.

For instance, it is now possible to combine searches by lobbyist type, registration status (i.e., active or inactive), subject matter, and government institution lobbied. Building on the changes outlined above, it is now possible to perform detailed and customised searches for information on lobbying activities going back to 1996.

Improved search and reporting tools make it easier for the media to find information in the Registry about the activities of lobbyists. This, in turn, improves transparency and accountability, and increases the confidence of Canadians in the decision-making process at the federal level.

TABLE 3: NUMBER OF REGISTRY SEARCHES CONDUCTED BY USERS IN 2013-14

SEARCH TYPE	TOTAL
12-Month Summary Search	126,646
Advanced Search	35,065
Recent Registrations	9,952
Recent Monthly Communication Reports	4,402
Total Searches	**176,065**

Improvements have also been made with respect to statistical reporting in the Registry. This new capacity was used to generate 5,624 individual reports on lobbying activities, including registrations, communications reports and subject-matters. All reports can now be easily exported to CSV/Text files, facilitating data analysis by users.

TABLE 4: NUMBER OF REPORTS CREATED BY USERS IN 2013-14

REPORT TYPE	TOTAL
Monthly Communication Reports by Period	2,460
Active Lobbyists and Registrations by Type	1,146
Subject Matter in Active Registrations	584
Government Institutions in Communication Reports	541
Government Institutions in Active Registrations	504
Subject Matter in Communication Reports	389
Total Reports Created by Users	**5,624**

In late 2012-13, my Office also responded to requests from advanced users who wanted to access Registry information in alternative formats. The ability to download a dataset containing the Registry information is now available for those who wish to analyse the data using third-party software. The datasets are updated once a month. The Registry dataset was downloaded 421 times in 2013-14.

The dataset is also referenced on OpenData.gc.ca.

MAINTAINING HIGH STANDARDS FOR CLIENT SERVICE

Two years ago, my Office implemented service standards with a view to ensuring a more client-centered and efficient registration process. These standards ensure that lobbyists have the information they need to comply with the Act, and that information disclosed by lobbyists is available to the public in a timely manner.

In 2013-14, my Office processed 99.9 percent of registrations within the established three-business day standard.

My staff also responded to 2,149 phone enquiries regarding the Registry of Lobbyists, the registration process, and the application of the *Lobbying Act* and the *Lobbyists' Code of Conduct*.

TABLE 5: SERVICE STANDARDS

Immediate	• Answer telephone calls received during business hours within 30 seconds, 80 percent of the time
Within 24 hours	• Activate user accounts upon receipt of a completed Registrant User Agreement • Respond to phone messages • Acknowledge receipt of e-mail inquiries
Within two business days	• Respond to less complex e-mail inquiries
Within three business days	• Approve or provide feedback on registrations
Within 14 calendar days	• Respond to more complex questions

REACHING OUT TO BUILD AWARENESS

The *Lobbying Act* (the Act) provides the Commissioner of Lobbying with a mandate to foster public awareness of the requirements of the Act. My Office continues to deliver educational programs through a comprehensive outreach program to reach out to all stakeholders.

IMPROVING COMPLIANCE THROUGH EDUCATION AND AWARENESS

I believe that communicating the requirements of the Act leads to better compliance.

In 2013-14, members of my staff and I reached out to more than 1,100 individuals, including lobbyists, public office holders, parliamentarians and their staff, and academics.

I appeared once before the House of Commons Standing Committee on Access to Information, Privacy and Ethics and once before the Senate Standing Committee on National Finance.

COMMUNICATING WITH LOBBYISTS

Significant effort and resources are devoted each year to inform and educate lobbyists about the requirements of both the *Lobbying Act* and the *Lobbyists' Code of Conduct*. Our outreach efforts foster a better understanding of the legal and ethical requirements lobbyists must meet under Canada's regime.

My Office provides individual attention to lobbyists as well as training sessions to help them understand the requirements and functioning of the reporting system. Each registrant is assigned a Registration Advisor who deals with their file. These interactions provide me and my staff with opportunities to understand issues of concern to registrants and help identify where further clarification may be required to facilitate registration and ensure compliance with the Act and the Code. This knowledge helps me target outreach and education programs where they are most needed.

In 2012-13, my Office adopted the practice of reaching out to every individual who registers for the first time as a consultant lobbyist to introduce them to their assigned Registration Advisor. This is an opportunity to remind new registrants of the registration and reporting deadlines, and offer assistance and guidance by phone, email, in-person meetings, or through webinars. In 2013-14, this practice was extended to every new in-house (corporation) and in-house (organization) registrant.

Electronic mail-outs are a cost-effective approach to communicate key information to registrants. Communicating by email with registrants allows my Office to provide guidance in a timely fashion and raise awareness about specific aspects of the lobbying regime.

EDUCATING PUBLIC OFFICE HOLDERS

Although the *Lobbying Act* puts the onus on lobbyists to comply, federal public office holders play a role in ensuring lobbying is transparent. Understanding the requirements of the Act and Code means that federal public office holders are more likely to recognize the legitimacy of lobbying activities and contribute to compliance.

I regularly meet with senior federal officials and management teams in departments and agencies. My staff and I also offer educational sessions to public office holders across government.

Meeting with government officials provides an effective mechanism to listen to their concerns, and understand the topics of interest to them. These meetings also help my Office gather intelligence on the effectiveness of its outreach activities and educational tools.

In 2012-13, I met with senior public servants in the 20 most-lobbied departments to help increase their awareness of the *Lobbying Act* and the *Lobbyists' Code of Conduct*. My focus on the most lobbied departments continued in 2013-14.

My staff and I also reached out to representatives from a range of federal institutions to provide information sessions about the requirements of the Act and the Code. Throughout the year, we participated in several sessions of "How Ottawa Works", a course for public servants run by the Canada School of Public Service.

The departments which received information sessions on the *Lobbying Act* included:

- Canadian Food Inspection Agency
- Citizenship and Immigration Canada
- Environment Canada
- Finance Canada
- Health Canada
- Employment and Skills Development Canada
- Industry Canada
- Public Works and Government Services Canada
- Shared Services Canada
- Transport Canada.

EDUCATING CURRENT AND FORMER DESIGNATED PUBLIC OFFICE HOLDERS

Designated public office holders are subject to the *Lobbying Act*'s five-year prohibition on lobbying after they leave office. Many of them seek, on a confidential basis, advice and guidance from me or my staff either before leaving office or prior to accepting new employment.

ASSISTING PARLIAMENTARIANS

I report directly to Parliament, primarily through the House of Commons Standing Committee on Access to Information, Privacy and Ethics. I appear before parliamentary committees, upon request, to answer questions from parliamentarians about issues related to my mandate and to allow them to perform their oversight role.

I appeared before the House of Commons Standing Committee on Access to Information, Privacy and Ethics in April 2013 to discuss the Main Estimates. I took the opportunity to highlight my Office's recent activities and outline my priorities for 2013-14. I also appeared before the Senate Committee on National Finance in February 2014 to discuss the Main Estimates as well as the mandate and function of my Office.

In both appearances, I also highlighted the measures I took to mitigate the impact on operations of the five-percent budget reduction announced in Budget 2012 and the budgetary freeze introduced in Budget 2014 for the next two fiscal years.

CONNECTING WITH COUNTERPARTS

The community that works to ensure that lobbying is conducted in a transparent and ethical manner is relatively small. Establishing and maintaining close ties between regulators from Canadian and foreign jurisdictions provides the community with opportunities to share experiences and discuss issues related to the administration of our respective lobbying regimes.

At the provincial level, Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Manitoba, Ontario, and Quebec have established lobbying registration regimes. Saskatchewan and New Brunswick have passed legislation, which has yet to come into force. In addition, two Canadian municipalities, Ottawa and Toronto, have lobbying registries in place, while St. John's in Newfoundland and municipalities in the province of Quebec are covered by their respective provincial legislation. I regularly participate in meetings of the Canadian Lobbyists Registrars and Commissioners Network, which meets twice a year.

I regularly communicate with my Canadian and American counterparts by phone or email. However, it is sometimes more efficient to conduct several meetings or discuss substantive issues in person. For this reason, I travelled to meet with my counterparts in British Columbia, Quebec, Ontario, Toronto and Washington, DC. From these meetings came a number of ideas to improve outreach and compliance strategies.

In June 2013, I travelled to Paris, France, to participate on a panel in the context of the Forum on Transparency and Integrity in Lobbying. This event, organized by the Organisation for Economic Cooperation and Development (OECD), provided me with an opportunity to share some of the lessons learned from the Canadian experience with lobbying legislation. I also benefitted from the discussions with colleagues participating from other jurisdictions. I continue to be active in the Council on Governmental Ethics Laws (COGEL), a professional organization for governmental agencies and other organizations working in the areas of ethics, elections, freedom of information, lobbying and campaign financing.

I am routinely consulted by representatives from other countries about my views regarding the administration of a lobbying regime. Several countries sought my expertise in 2013-14, including the Czech Republic, Ireland, Malaysia, Mexico, Morocco and the United Kingdom.

REACHING OUT TO CANADIANS THROUGH THE WEBSITE

My website is the main tool for reaching Canadians as well as disseminating information to lobbyists, public office holders, parliamentarians, and the media. This year, the website welcomed 51,810 unique visitors.

The educational materials posted on my Office's website were augmented this year with the addition of an annotated *Lobbying Act*, FAQs for lobbyists, and a flowchart entitled "Are You Required to Register in the Federal Registry of Lobbyists?".

These were added to tools already available on the website, such as tutorials on the registration process, a registration guide for lobbyists, interpretation bulletins and advisory opinions. One of the most downloaded documents on the website is an information sheet entitled "Ten Things You Need to Know about Lobbying", which provides an overview of the regime.

In 2013-14, the website also served as the main tool for the consultation on the *Lobbyists' Code of Conduct*.

CONSULTATION ON THE *LOBBYISTS' CODE OF CONDUCT*

The *Lobbyists' Code of Conduct* (the Code), which was introduced in 1997, provides guidelines for lobbyists about how they are expected to behave. It is also useful for public office holders and other stakeholders to know what is considered ethical behaviour for lobbyists. The Code contains three principles – Integrity and Honesty, Openness, and Professionalism – and eight rules dealing with Transparency, Confidentiality and Conflict of Interest.

Unlike the *Lobbying Act*, there are no fines or jail terms for failing to comply with the Code, as it is a non-statutory instrument. The sanction for those who breach the *Lobbyists' Code of Conduct* is the tabling of a report in Parliament at the end of an investigation. In an industry such as lobbying that is often based on reputation, the deterrence of such a sanction should not be underestimated. To date, I have tabled 10 Reports on Investigation, finding 12 lobbyists in breach of the Code.

The Code plays an important role in the Canadian legislative framework for lobbying and it is important to ensure it continues to be relevant in reflecting the high ethical standards that Canadians expect of lobbyists. While the lobbying legislation has been amended several times since it was introduced in 1989, the structure, the principles and the rules of the Code have remained unchanged since it was first introduced in 1997. In 2013-14, I decided that it was time to undertake a full review of the *Lobbyists' Code of Conduct*.

The consultation was conducted from September to December 2013. I posted a discussion paper on the OCL website to solicit views from stakeholders. A total of 19 written submissions were received from a variety of stakeholders, including consultant and in-house lobbyists, academics, and other interested stakeholders.

LIST OF SUBMISSIONS

- Paul G. Thomas, Professor Emeritus, University of Manitoba
- Nikol J. Schultz, VP Pipeline Regulation and General Counsel, Canadian Association of Petroleum Producers (CAPP)
- Charles Milne, charles milne & company
- Paul Pross, Professor Emeritus, Dalhousie University
- Ilhija, Director of Foreign Affairs, BGB Group
- Bruce Futterer, Vice-President and General Counsel, General Electric Canada
- Bruce Anderson, Director Centre for Management Development; Shelagh Campbell, Assistant Professor of Business Ethics; Bill Bonner, Associate Professor of Management Information Systems, on behalf of Faculty of Business Administration, University of Regina
- Preetpal Bhamra, Corporate Counsel, MacDonald-Dettwiler and Associates Ltd.
- Richard Doyle, Executive Director, Dairy Farmers of Canada
- Hon. Joseph L. Jordan P.C. (as an individual) – Senior Consultant, The Capital Hill Group
- Heather Kennedy, Vice President Government Relations, Suncor Energy
- Elizabeth Denham, Registrar of Lobbyists, Office of the Registrar of Lobbyists of British Columbia
- Government Relations Institute of Canada (GRIC) and the Public Affairs Association of Canada (PAAC)
- University of Toronto
- Barry W. Rempel, President & CEO, Winnipeg Airports Authority Inc.
- Joe Heffernan, Chairman, Clairvest Group and Ken Rotman, Co-CEO and Managing Director, Clairvest Group
- Andrée Lessard (as an individual), Project Officer, Public Works and Government Services Canada
- Rick Sztramko, Manager Business Development CCG, Babcock Canada Inc.
- Canadian Bar Association (CBA)

In the interest of transparency, submissions were posted on my website.

Five roundtable discussions were also organized to consult directly with lobbyists, public office holders and other stakeholders.

All views, comments and suggestions received during the consultation were analysed and incorporated into a report that was published in May 2014 on my website.

Overall, I was pleased with the quality of the comments and suggestions provided by participants, both in their written submissions or during the roundtable sessions. Although participants were generally supportive of the Code as it currently exists, they recommended a broad range of possible improvements. Some recommendations were about fairly minor changes, such as adding definitions, while others were more substantive, including changing the scope of the Code and adding new rules.

As a result of the consultation, I determined that an update to the Code was warranted. The Code will be revised over the summer of 2014. In the fall, a second consultation will be conducted to solicit the views of stakeholders.

ENSURING COMPLIANCE WITH THE ACT AND THE CODE

I believe that knowledge and understanding of the *Lobbying Act* (the Act) and the *Lobbyists' Code of Conduct* (the Code), supported by an effective education and outreach program, are key to fostering greater compliance. However, in order to be effective at deterring non-compliance with the requirements of the Act, my efforts to educate must be complemented by a program of monitoring and enforcement. It is therefore important that there be consequences for those who are found to be in breach of either the Act or the Code.

FIRST CONVICTION UNDER THE *LOBBYING ACT*

The *Lobbying Act* contains sanctions for failure to file a return and for knowingly making false or misleading statements. Individuals who are found guilty of an offence are liable to a fine of up to $50,000 and/or six months imprisonment on summary conviction, or up to $200,000 and/or imprisonment of up to two years on proceedings by way of indictment. If an individual is convicted of an offence under the Act, the Commissioner has the authority to prohibit that individual from lobbying for a period of up to two years.

The 2013–14 fiscal year saw the first conviction, under the *Lobbying Act*, for unregistered lobbying. In 2011, I received a complaint about the lobbying activities of Andrew Skaling. I opened an investigation into the allegations, which uncovered evidence that Mr. Skaling had failed to register when he agreed to lobby on behalf of a not for profit organization, the Canadian Network of Respiratory Care (CNRC).

Under subsection 5(1) of the *Lobbying Act*, individuals must file a consultant lobbyist registration return if they undertake to communicate with a federal public office holder, for payment, on behalf of a client.

The evidence showed that the director of the CNRC was told by Mr. Skaling on three occasions that he had registered as required under the *Lobbying Act*. The investigation found that Mr. Skaling was not registered at any time while under contract to lobby for the CNRC.

Once I believed on reasonable grounds that an offence under the Act had been committed, I suspended my investigation and referred the matter to the Royal Canadian Mounted Police (RCMP). Their investigation confirmed that Mr. Skaling was retained by the CNRC from June to December 2010 to help it achieve accreditation and federal funding for a smoking cessation program.

A charge of failing to register as a consultant lobbyist was laid against Mr. Skaling in January 2013. Mr. Skaling entered a guilty plea in July 2013 and was fined $7,500 under the *Lobbying Act*.

> "It's important that a message be sent, not only to [Mr. Skaling] but to other people who are involved in [...] lobbying, that this type of behaviour is just not acceptable. There's a reason we have this Act."
>
> "It promotes a sense of openness, or fairness, it is an area that people can always worry about and wonder what happens behind closed doors, and by having this regulation, it allows the public to see in a little, and it gives a sense of fairness and that the system is working."
>
> **JUSTICE ANN ALDER,**
> **ONTARIO COURT OF JUSTICE**
>
> ***Excerpt from her ruling in the Andrew Skaling case***

Following the conviction, I used my authority under the Act to impose a four month prohibition from lobbying on Mr. Skaling. This meant he could not engage in any registrable federal lobbying activities from September 16, 2013 to January 16, 2014.

COMPLIANCE PROGRAM

My compliance program focuses on three main types of activity.

1. Reviews and investigations of alleged breaches of the Act or the Code

THE PROCESS FOR INVESTIGATING BREACHES

When an alleged breach of the Act or the Code is brought to my attention, the first step is to initiate an informal fact finding exercise, referred to as an administrative review. The facts and analysis are presented to me in an Administrative Review Report so that I may determine if there is any basis to conclude that the allegation is founded. If so, I will decide on the suitable means of ensuring compliance. I conduct a formal investigation under the *Lobbying Act* if I have reason to believe that is the course of action necessary to ensure compliance with the Act or the Code.

In 2013-14, I opened 17 administrative reviews. Twelve were initiated based on information received from external sources (i.e., complaints by third-parties or voluntary disclosures of a breach by registrants themselves). The remaining five administrative reviews were launched after my Office's internal monitoring identified suspected breaches.

Administrative reviews are well-documented and the resulting reports provide me with an extensive assessment of the allegation, allowing me to make a decision whether to proceed with a formal investigation. A thorough process is imperative given that my decisions are subject to judicial review in Federal Court.

In order to ensure procedural fairness and natural justice, I also take into account a range of factors in making decisions in the application of compliance and enforcement measures. My Office has prepared a document, entitled *Guiding Principles and Criteria for Recommending Compliance Measures*, to explain these factors, which include:

- the nature and gravity of the alleged transgression;
- the degree of injury caused by the alleged transgression, such as transparency, public confidence and trust;
- the length of time that has elapsed since the alleged transgression was committed;
- the degree of negligence or intent of the alleged transgression;
- whether the alleged transgression was voluntarily disclosed by the subject; and
- the subject's compliance history.

OUTCOMES OF ADMINISTRATIVE REVIEWS

There are four possible outcomes following an administrative review.

a. **The review is closed because the allegation was unfounded.** Reasons why allegations are unfounded include: the individual(s) did not communicate in respect of a registrable subject; their activity was not undertaken for payment; or, the "significant part of duties" threshold for registration was not met by the corporation or organization. In such cases, I will advise the individual/organization/corporation and the complainant of my decision by letter.

b. **The review is closed even though the allegation is well-founded.** In cases where I consider the gravity of the transgression to be low, I may choose to employ alternative compliance measures that I consider better suited to ensuring compliance with the *Lobbying Act*. These measures would include educating the lobbyist about the requirements of the Act or requesting that a correction be made to information submitted to the Registry. In most cases, such files do not warrant a referral to the RCMP or a formal investigation under the Act. Following the closing of a review, these individuals are subject to further monitoring by my Office to ensure they remain in compliance.

c. **A formal investigation is initiated when I determine that an alleged breach is serious and appears to be well-founded.** The Act prescribes that I shall initiate an investigation if I have 'reason to believe' that an investigation is necessary to ensure compliance with the Act or the Code. In some instances, I may initiate more than one investigation based on information provided to me in a single Administrative Review Report.

d. **The matter is referred to a peace officer, the RCMP, if I have 'reasonable grounds to believe' that an offence has been committed under the Act, or any other Act of Parliament or of the legislature of a province.** In such cases, the Act prescribes that I suspend looking into a matter until it has been finally disposed of by the RCMP or the courts.

The following are some examples of cases that I reviewed during 2013-14.

EXAMPLE #1: AN ALLEGATION OF UNREGISTERED IN-HOUSE (CORPORATION) LOBBYING

On February 28, 2013, I initiated an administrative review after receiving a complaint that unregistered lobbying had occurred by employees of a company applying for a mandatory carriage licence from the Canadian Radio-television and Telecommunications Commission (CRTC).

The objective of this administrative review was to determine whether employees of the company engaged in unregistered lobbying activities and if so, whether there was reason to believe that an investigation was necessary to ensure compliance with the *Lobbyists' Code of Conduct* or the Act.

The administrative review involved a review of the Registry, research on the process of granting a mandatory carriage licence at the CRTC and interviews with the complainant, a CRTC official and an official from the company in question.

Based on the information provided in the Administrative Review Report prepared by my Office, I determined that the company was not required to register in-house lobbying activity. The awarding of a CRTC licence requires no regulatory, legislative or policy change. In addition, a CRTC licence does not constitute a financial benefit. Therefore, communications of this nature are not registrable under the *Lobbying Act*.

I determined that the allegation was deemed unfounded and the administrative review was closed.

EXAMPLE #2: AN ALLEGATION OF LOBBYING WHILE PROHIBITED

In October 2012, I initiated an administrative review of an allegation that a former designated public office holder was in breach of the *Lobbying Act* by engaging in lobbying activity while subject to the five-year post-employment prohibition. The complainant provided the OCL with evidence that the individual had communicated on numerous occasions with federal public office holders on behalf of his employer. The objective was to determine:

- whether the former public office holder was subject to the five-year prohibition on lobbying;
- whether any of his communications with federal public office holders on behalf of his employer were in respect of subjects deemed registrable under the *Lobbying Act*; and if so
- whether the communications constituted a significant part of his work on their behalf.

The review began with an analysis of information obtained from the complainant, a search of the Registry, and confirmation of whether the individual was a former designated public office holder subject to the five-year post-employment prohibition on lobbying. This was followed by correspondence with federal departments that were the object of communication, and interviews with public office holders, to ascertain the nature and extent of his lobbying activities. The review also involved extensive research on the policies, programs, licences and treaties related to the subject-matter. After conducting interviews with the subject and his employer, an Administrative Review Report was prepared by my Office.

Based on the information and analysis contained in that report, it was confirmed that the individual was subject to the five-year prohibition on lobbying, and that he had communicated on several occasions with federal public office holders in respect of subjects that are potentially registrable. However, he was not in breach of the post-employment restriction, as the activities did not constitute a significant part of his work on behalf of his employer. The communications were largely in respect of the enforcement, interpretation or application of federal regulations and other routine dealings with regulatory authorities. Communication of this nature is not deemed to be registrable under the Act.

I determined that the individual was not in breach of the five-year prohibition on lobbying and the file was closed.

EXAMPLE #3: A VOLUNTARY DISCLOSURE OF UNREGISTERED IN-HOUSE (ORGANIZATION) LOBBYING

In January 2014, I initiated an administrative review after the representative of a non-profit organization contacted my Office to inquire if their registration needed to be updated. The Act states that no more than five months shall have passed since the end of the month in which a return was last filed. In this case, the organization's registration had been terminated by the former President and Chief Executive Officer.

The Act also states that the officer responsible for the organization shall file a return not later than two months after the day on which the requirement to file a return first arises. The new President and Chief Executive Officer had sent in a Registration User Agreement (RUA) and assumed that, by filling out the RUA, he was actually registering with the OCL.

The objectives of the administrative review conducted by my Office were to determine if: the organization had engaged in activities deemed registrable under the Act without filing a return in the Registry of Lobbyists; and, if there was reason to believe that an investigation was necessary to ensure compliance with the Act or the *Lobbyists' Code of Conduct*.

The administrative review involved research about the organization, an analysis of its registration history, an interview with the current President and Chief Executive Officer and correspondence between the organization and the OCL. Based on information provided in the Administrative Review Report prepared by my Office, I determined that the allegation was well-founded. However, I decided not to initiate a formal investigation under the Act and, instead, to educate the registrant about the requirements of the Act. The decision was made for the following reasons:

- the non-compliance was disclosed voluntarily by the registrant;
- the organization had a new President and Chief Executive Officer and this was the first time he had registered;
- upon learning that the organization was not registered, he took immediate action to register on its behalf; and
- the registrant stated that he has put measures in place to ensure continued compliance.

The President and Chief Executive Officer of the organization was advised of the findings in writing and warned that any future non-compliance would result in other measures being taken, as outlined in the Act. The organization is now subject to monitoring by my Office.

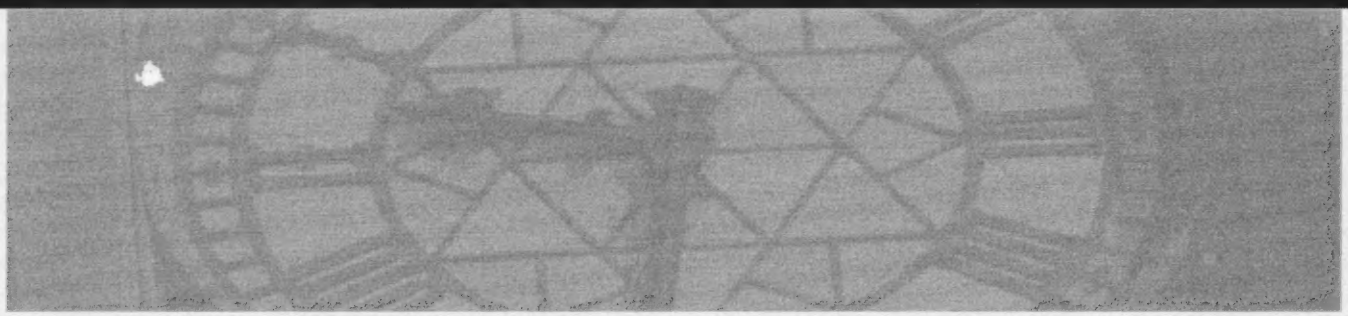
EXAMPLE #4: AN ALLEGATION OF UNREGISTERED LOBBYING

In November 2013, as a result of information presented to me in an Administrative Review Report prepared by my Office, a formal investigation was opened in accordance with subsection 10.4(1) of the *Lobbying Act*. The administrative review was initiated following the receipt of a complaint regarding the alleged lobbying activities of a consultant lobbyist.

According to a written agreement between the individual and the client, the individual undertook to communicate with federal public office holders on the client's behalf in order to develop a program of the Government of Canada. However, the individual failed to register the consultant lobbying activity.

The administrative review involved interviews with public office holders from federal institutions and the client of the consultant. Analysis of the contract, invoices, payments, and correspondence related to the undertaking was also completed. As a result of the information contained in the Administrative Review Report, I believed an investigation was necessary to ensure compliance with the Act. As failing to register a consultant lobbyist undertaking is an offence under the Act, I subsequently suspended the investigation and referred the matter to the RCMP.

As of March 31, 2014, the case remained with the RCMP.



CASES CLOSED

The table below provides information about the 21 administrative reviews I closed in 2013-14.

TABLE 6: ADMINISTRATIVE REVIEWS CLOSED IN 2013-14, BY REASON

OUTCOME OF ADMINISTRATIVE REVIEW	NUMBER CLOSED
Unfounded — No registrable or reportable communication	4
Unfounded — No apparent conflict of interest	1
Unfounded — Not a significant part of duties	4
Unfounded — Accurate information in registration	2
UNFOUNDED – SUBTOTAL	**11**
Well-founded — Education and monitoring	7
Well-founded — Code of Conduct Investigation opened	1
Well-founded — Code of Conduct Investigation opened and suspended (referred to the RCMP)	1
WELL-FOUNDED — SUBTOTAL	**9**
Ceased: Rule 8 (Unfair to apply current interpretation to events that took place prior to Federal Court of Appeal ruling)	1
CEASED — SUBTOTAL	**1**
TOTAL NUMBER OF ADMINISTRATIVE REVIEWS CLOSED IN 2013-14	**21**

The time required to complete an administrative review or an investigations will vary in each case depending on factors such as complexity, availability of evidence, etc. The processing of files may also be delayed for reasons beyond my control after they are referred to the RCMP.

The Act provides me with some degree of discretion in deciding whether to pursue or cease a review or an investigation. The *Guiding Principles and Criteria for Recommending Compliance Measures* explains in some detail the application of my discretion in this regard.

Since the coming into force of the *Lobbying Act* in 2008, my Office has maintained a caseload of 50-60 files on average, including exemption reviews, administrative reviews and investigations. Each year, approximately 20-30 new files are initiated.

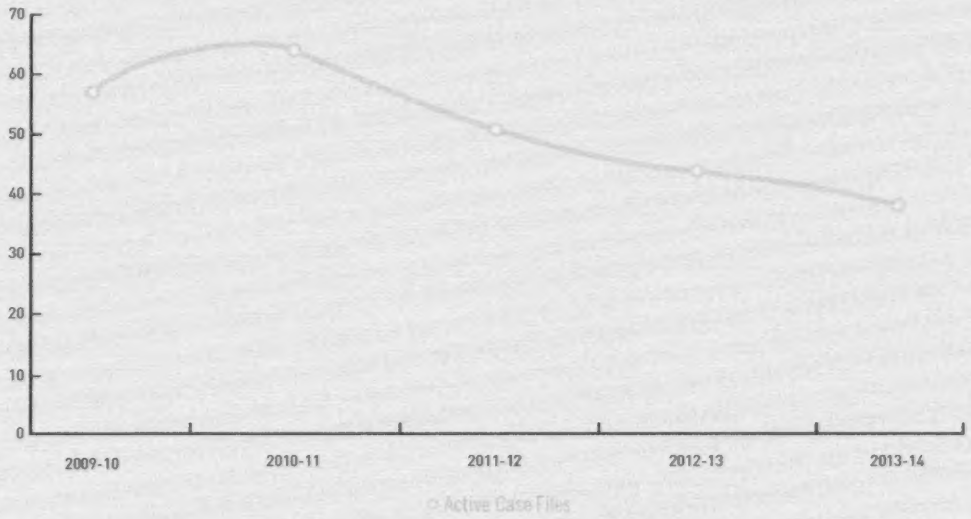
ELIMINATING THE BACKLOG OF INHERITED CASE FILES

The elimination of the backlog of inherited files represents an important milestone for my Office.

In 2013-14, the last file that was inherited from the former Registrar of Lobbyists was closed.

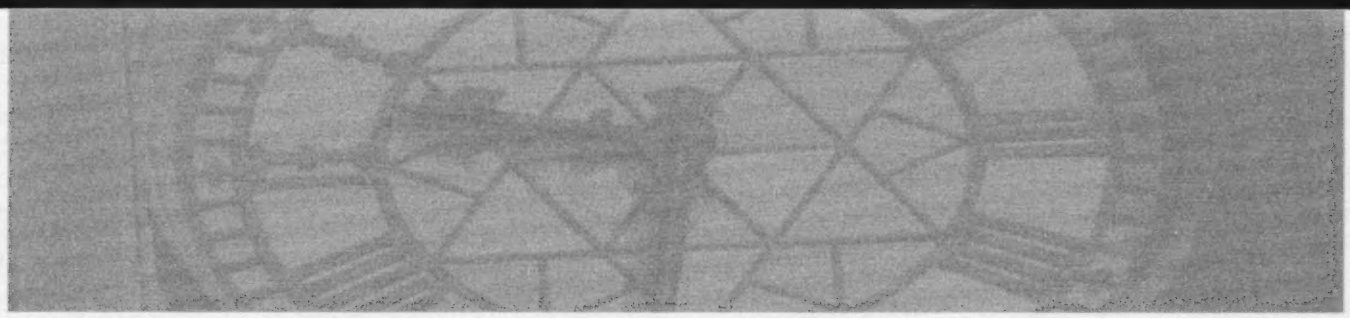
When the OCL was established in July 2008, a total of 46 administrative review and investigation files were inherited from the former Registrar of Lobbyists. For the past five years, my Office worked to reduce the number of older files while keeping pace with an average of 20 to 30 new files opened annually.

FIGURE 4: ACTIVE FILES IN CASELOAD AT YEAR-END



At the end of 2009-10, the first complete fiscal year for the OCL, the caseload included 58 open administrative review, exemption review and investigation files. Although the caseload increased slightly to 64 open files by the end of the following fiscal year, it began to decline steadily each year after that. The number of open cases was 38 at the end of 2013-14.

In addition to administrative reviews and investigations, the OCL processes exemption review applications. According to established service standards, applicants are to be issued a letter of intent from the Commissioner within 60 days. This year, 13 applications for exemption from the five-year prohibition on lobbying were received, compared to nine in 2012-13. Three applications for exemption were carried over from the previous year. A total of 15 exemption reviews were completed in 2013-14, which is more than double the number of such reviews completed in the previous year.



2. Verification of data submitted by lobbyists in monthly communication reports

The *Lobbying Act* requires that registered lobbyists disclose oral and arranged communications with designated public office holders (DPOHs) about registrable subject matters on a monthly basis. These reports must include the date of the communication, the subject-matter, as well as the name, title and government institution of the DPOH with whom the communication took place. Lobbyists are responsible to ensure that the information they disclose in the Registry is accurate.

My Office has put measures in place to verify the information being submitted by lobbyists in order to ensure the integrity of the data in the Registry. Each month, the information contained in a sample of approximately five percent of communication reports is verified. Every DPOH listed in the selected monthly communication reports is asked to confirm that the information submitted by the lobbyists is accurate and complete.

In 2013-14, 112 requests for verification were sent to DPOHs, asking them to validate 554 communications reports. In 513 cases, the information was confirmed to be accurate. Errors were found in only 41 reports. My Office contacted the registrants about the errors identified to request corrections and clarifications. The majority of errors detected through this verification process were clerical (incorrect date, spelling error, wrong title for the DPOH, etc.), or consisted of over-reporting (communication was not with a DPOH).

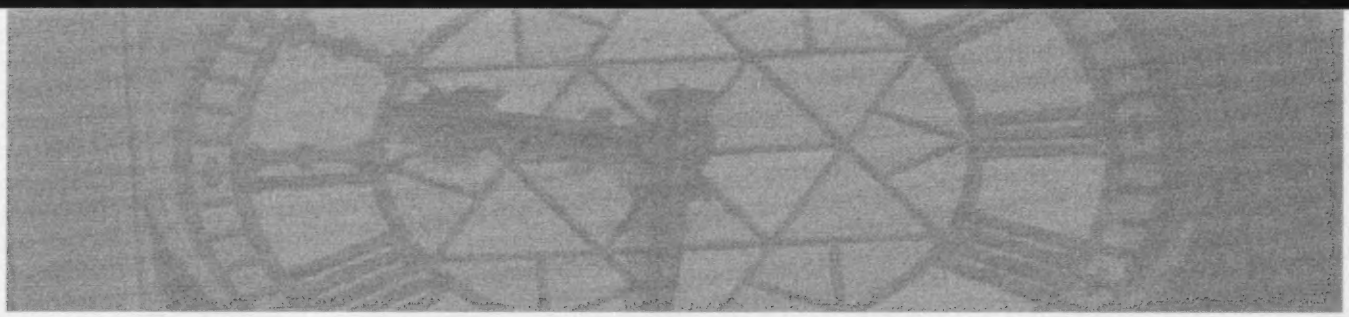
Advisory letters are sent to corporations and organizations that may be engaged in lobbying activities but are not registered. This year, 289 corporations and organizations were subject to compliance verification after monitoring activities conducted by my Office revealed that they might be engaged in lobbying activities. My Office confirmed that approximately 73 percent of them were registered as required by the Act. Following further analysis, 12 advisory letters were sent to educate and assist potential registrants in determining if they needed to register. One new registration was submitted as a result. The other recipients responded that they did not meet the 'significant part of duties' threshold for registration set out in the Act, or did not lobby federal public office holders.

3. Reviews of applications for exemption from the five-year post-employment prohibition on lobbying for former designated public office holders

The *Lobbying Act* prescribes a five-year prohibition for former DPOHs and members of the Prime Minister's transition team after they leave office.

Under the Act, such individuals cannot work as consultant lobbyists, be employed by not-for-profit organizations and carry out lobbying activities on their behalf, or work for corporations if lobbying federal public office holders constitutes a significant part of their work (i.e. interpreted as 20 percent or more of their work).

I may grant an exemption from the five-year prohibition if I determine it is not contrary to the purposes of the Act. Subsection 10.11(3) of the Act indicates that I may consider any circumstance or factor in support of my decision whether to grant an exemption, including whether the individual was a DPOH for a short period or on an acting basis, was employed under a program of student employment, or had administrative duties only.



In 2013-14, my Office completed 15 exemption reviews and I granted seven exemptions. Two were granted to former DPOHs who had been employed under a student employment program and two were granted to former DPOHs who held their positions for a short period. The remaining three had a combination of mainly administrative duties, student employment and/or worked for a short period of time. As required by the Act, all exemptions granted, and the reasons for granting them, were made public on the OCL's website. In eight cases, I decided not to grant an exemption.

I believe that timely decisions about exemption requests lead to greater compliance with the five-year prohibition. As a result, I have established service standards for the exemption review process. This year, every Letter of Intent was issued within the established 60 day service standard.

In 2013-14, the process to request an exemption to the post-employment prohibition for former designated public office holders was updated. A checklist of information required by my Office to complete such a review was also developed. Both these documents are available on my website. As a result, the factors and circumstances that make applicants eligible for an exemption appear to be better understood as the information provided with exemption applications has improved.

TECHNOLOGY FOR THE FUTURE

In 2013-14, the priority in terms of technology for the Office of the Commissioner of Lobbying (OCL) was the planning and deployment of a segregated computer network. Not connected to the Internet and accessible by a small group of OCL users only, this network provides capacity to store and easily exchange sensitive information in a digital format. The first goal is to focus on enforcement and other compliance-related data, and it can be expanded at a later date to include other data. The segregated network went live in March 2014, and subsequent phases of the deployment are scheduled for 2014-15.

The segregated network also provides an ideal platform to build an automated case management system that will be able to accommodate protected information. Plans are currently being made to deploy a compliance-specific case management system in 2014-15.

Finally, the segregated network offers the infrastructure to assess options for future development of the Lobbyists Registration System. As a first step, a copy of the Registry database was duplicated on the segregated network to facilitate internal analysis. Reports can now be produced directly by OCL analysts rather than requesting them from the service provider, which improves both efficiency and response times. By having an internal version of the Registry database, the OCL will now be able to develop new algorithms for data manipulation more easily and more economically.

ANNEX A

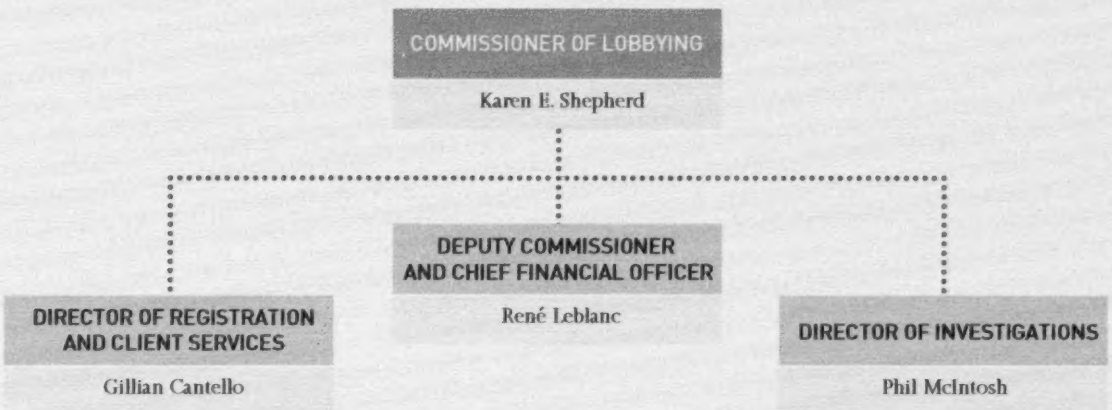
ABOUT THE OFFICE

Who we are

The Commissioner of Lobbying is an independent Agent of Parliament, appointed by resolution of both Houses of Parliament under the *Lobbying Act* (the Act) for a term of seven years. The purpose of the Act is to ensure transparency and accountability in the lobbying of public office holders, in order to contribute to confidence in the integrity of government decision-making. The Commissioner administers the Act by:

- maintaining the Registry of Lobbyists, which contains and makes public the registration information disclosed by lobbyists;
- developing and implementing educational programs to foster public awareness of the requirements of the Act; and
- conducting reviews and investigations to ensure compliance with the Act and the *Lobbyists' Code of Conduct* (the Code).

The Commissioner is supported by the Office of the Commissioner of Lobbying, which was established in 2008. The Commissioner reports annually to Parliament on the administration of the Act and the Code and is required to table reports about any investigation conducted in relation to the Code.



Our organization

The Office, when fully staffed, has 28 full-time employees and an overall budget of about $4 million. It is divided into four groups.

- **The Office of the Commissioner** includes the Commissioner, a Senior Legal Counsel, a Senior Advisor, and an Administrative Assistant. The Commissioner has the rank and authority of a Deputy Head of a federal department.

- **The Office of the Deputy Commissioner and Chief Financial Officer** is responsible for all corporate services, including: integrated strategic and operational planning; financial and human resource management; information technology; strategic policy; internal and external communications advice; audit and evaluation; security; facilities management; and workplace safety. The Deputy Commissioner and Chief Financial Officer is also responsible for the coordination and delivery of all outreach activities.

- **The Registration and Client Services Directorate** is responsible for developing and maintaining the Lobbyists Registration System (LRS). The LRS allows lobbyists to register their lobbying activities and perform amendments, renewals and terminations of their registrations. This group provides assistance to registrants, public office holders and the general public in using the LRS and in searching the Registry.

- **The Investigations Directorate** is responsible for supporting the Commissioner in her mandate to ensure compliance with the *Lobbying Act* and the *Lobbyists' Code of Conduct*. The directorate monitors lobbying activities, verifies the accuracy of monthly communication reports submitted by lobbyists, and reviews and investigates allegations of non-compliance. It also reviews applications for exemptions to the five-year prohibition on lobbying for former designated public office holders.

What we do

MAINTAIN THE REGISTRY

The Office works to ensure that the Lobbyists Registration System is an easy-to-use tool for lobbyists to register their lobbying activities. To this end, the system is refined on an ongoing basis. In addition, systems and processes are in place to ensure that interruptions and downtime are kept to a minimum. This allows Canadians access to the Registry 24 hours a day, seven days a week.

DELIVER EDUCATION AND AWARENESS PROGRAMS

The Office undertakes a range of activities to ensure that public office holders, lobbyists, their clients and Canadians are aware of the requirements of the Act. Our efforts are focused on key activities to reach stakeholders in the most cost-effective way possible.

CONDUCT REVIEWS AND INVESTIGATIONS

The Office strives to ensure that all lobbyists are compliant with the *Lobbying Act* and the *Lobbyists' Code of Conduct*. Administrative reviews and investigations are conducted to examine every alleged breach of the Act or the Code. Rigorous monitoring and verification processes also contribute to compliance.

ANNEX B

PURPOSE AND DESCRIPTION OF THE *LOBBYING ACT*

The *Lobbying Act* (the Act) provides for the public registration of individuals who are paid to communicate with public office holders (POHs) with regard to certain topics as prescribed in the legislation. Public office holders are defined in the Act as virtually all persons occupying an elected or appointed position in the Government of Canada, including members of the House of Commons and the Senate and their staff, as well as officers and employees of federal departments and agencies, members of the Canadian Forces and members of the Royal Canadian Mounted Police.

The preamble to the Act sets out four basic principles pertaining to the registration of lobbyists.

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- A system for the registration of paid lobbyists should not impede free and open access to government.

Individuals must be registered if they communicate with federal POHs, for payment, with regard to:

- the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs;
- the awarding of federal grants, contributions or other financial benefits; and
- in the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between a POH and any other person.

The Act provides for the following three categories of lobbyists:

CONSULTANT LOBBYISTS

Consultant lobbyists are individuals who are paid to lobby on behalf of a client. Consultant lobbyists may be government relations consultants, lawyers, accountants or other professional advisors who provide lobbying services for their clients. They must file a registration for each individual undertaking (i.e., one per client).

IN-HOUSE LOBBYISTS (CORPORATIONS)

In-house lobbyists (corporations) are employees of corporations that conduct commercial activities for financial gain. As the registrant, the most senior paid officer must register the corporation if the total lobbying activity of all employees represents a significant part of the duties of one equivalent full-time employee. The registration must include the names of all senior officers who engage in any lobbying activity, as well as the name of any employee (senior officer or otherwise) who individually devotes a significant part of his or her duties to lobbying activities.

IN-HOUSE LOBBYISTS (ORGANIZATIONS)

In-house lobbyists (organizations) are employees of non-profit organizations, such as associations, charities and foundations, including non-profit corporations. As the registrant, the most senior paid officer of such an organization must register the names of all employees engaged in lobbying activities, if the total lobbying activity of all such employees represents a significant part of the duties of one equivalent full-time employee.

DISCLOSURE REQUIREMENTS

All three categories of lobbyists are required to disclose certain information within time limits specified in the Act. This information includes:

- names of their clients, or corporate or organizational employers;
- names of the parent or subsidiary companies that would benefit from the lobbying activity;
- organizational members of coalition groups;
- specific subject matters of lobbying;
- names of the federal departments or agencies contacted;
- sources and amounts of any public funding received; and
- communication techniques used, such as meetings, telephone calls or grass-roots lobbying.

Although their reporting requirements differ slightly, corporations and organizations must also provide general descriptions of their business or activities.

Regulations

The *Lobbying Act* authorizes the Governor in Council to make regulations respecting the submission of returns and other registration requirements of the Act, and in relation to various aspects of the lobbyists' registration regime.

The *Lobbyists Registration Regulations* set the form and manner in which lobbyists must file returns required by the Act. Returns disclose information regarding the lobbying activities of registrants. The Regulations also set out additional information to be disclosed in returns, beyond what is required by the Act. They set the timeframes to respond to a request by the Commissioner for correction or clarification of information submitted in returns. The Regulations also describe the type of communication that will trigger monthly returns. The Lobbyists Registration System reflects the form and manner of registration set out in the *Lobbyists Registration Regulations*.

The Act defines designated public office holders to include ministers, ministers of state and ministerial staff, deputy heads, associate deputy ministers and assistant deputy ministers and those of comparable rank throughout the public service. The *Designated Public Office Holder Regulations* further designate various positions in the Canadian Forces and the Privy Council Office, as well as the Comptroller General of Canada, with the result that the persons occupying those positions are included as designated public office holders under the *Lobbying Act*. The Regulations came into force on July 2, 2008 and further designated the following 11 positions or classes of positions:

- Chief of the Defence Staff;
- Vice Chief of the Defence Staff;
- Chief of Maritime Staff;
- Chief of Land Staff;
- Chief of Air Staff;
- Chief of Military Personnel;
- Judge Advocate General;
- any position of Senior Advisor to the Privy Council to which the office holder is appointed by the Governor in Council;
- Deputy Minister (Intergovernmental Affairs) Privy Council Office;
- Comptroller General of Canada; and
- any position to which the office holder is appointed pursuant to paragraph 127.1(1)(*a*) or (*b*) of the *Public Service Employment Act*.

On September 20, 2010, the Regulations were amended to add three more classes of positions to the category of designated public office holder:

- the position of Member of the House of Commons;
- the position of Member of the Senate; and
- any position on the staff of the Leader of the Opposition in the House of Commons or on the staff of the Leader of the Opposition in the Senate, that is occupied by a person appointed pursuant to subsection 128(1) of the *Public Service Employment Act*.

ANNEX C

LOBBYISTS' CODE OF CONDUCT

Under the *Lobbying Act* (the Act), the Commissioner of Lobbying is responsible for developing a lobbyists' code of conduct. The current *Lobbyists' Code of Conduct* (the Code) is the result of extensive consultations with a large number of people and organizations with an interest in promoting public trust in the integrity of government decision-making. The Code, which came into effect on March 1, 1997, is not a statutory instrument. The Commissioner is, however, responsible for enforcement of the Code.

The purpose of the Code is to assure the Canadian public that lobbyists are required to adhere to high ethical standards, with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision-making. In this regard, the Code complements the disclosure and registration requirements of the Act.

The Code is based on the same four basic principles stated in the Act.

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- A system for the registration of paid lobbyists should not impede free and open access to government.

The Code is made up of the following three overriding principles followed by eight specific rules.

Principles

INTEGRITY AND HONESTY

Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

OPENNESS

Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

PROFESSIONALISM

Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the *Lobbyists' Code of Conduct* as well as all the relevant laws, including the *Lobbying Act* and its regulations.

Rules

TRANSPARENCY

1. Identity and purpose
Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.

2. Accurate information
Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

3. Disclosure of obligations
Lobbyists shall indicate to their client, employer or organization their obligations under the *Lobbying Act*, and their obligation to adhere to the *Lobbyists' Code of Conduct*.

CONFIDENTIALITY

4. Confidential information
Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

5. Insider information
Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

CONFLICT OF INTEREST

6. Competing interests
Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure
Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence
Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder.

ANNEX D

STATISTICAL INFORMATION

Subject matter of lobbying activities

The following table shows, in rank order, the 20 subject matters most frequently identified by lobbyists in their registration for this fiscal year. The remaining two columns show the rank ordering of subject matters for the two previous fiscal years. This information is based on the registrations that were active on March 31, 2014.

SUBJECT MATTER OF LOBBYING	2013-14	2012-13	2011-12
Industry	1	1	1
Taxation and Finance	2	2	2
International Trade	3	3	4
Environment	4	4	3
Health	5	5	5
Transportation	6	6	6
Science and Technology	7	7	7
Consumer Issues	8	8	8
Employment and Training	9	10	12
Government Procurement	10	13	13
Infrastructure	11	9	11
Energy	12	11	10
Agriculture	13	13	13
Aboriginal Affairs	14	15	14
Economic Development	15	18	-
International Relations	16	17	16
Regional Development	17	14	15
Defence	18	16	17
Intellectual Property	19	20	18
Internal Trade	20	19	19

Government institutions

The following table shows, in rank order, the 20 federal government institutions most frequently identified by lobbyists in their registration for this fiscal year. The remaining two columns show the rank ordering of institutions for the two previous fiscal years. This information is based on the registrations that were active on March 31, 2014.

GOVERNMENT INSTITUTION	2013-14	2012-13	2011-12
House of Commons	1	1	1
Industry Canada	2	2	2
Prime Minister's Office	3	3	3
Finance Canada	4	4	4
Senate of Canada	5	6	8
Privy Council Office	6	7	6
Environment Canada	7	8	7
Health Canada	8	9	9
Foreign Affairs, Trade and Development Canada*	9	5	5
Transport Canada	10	10	10
Natural Resources Canada	11	11	11
Treasury Board Secretariat	12	14	13
Public Works and Government Services Canada	13	12	13
Agriculture and Agri-Food Canada	14	15	12
Employment and Social Development Canada**	15	13	-
Aboriginal Affairs and Northern Development Canada***	16	17	16
National Defence	17	16	15
Canada Revenue Agency	18	18	-
Canadian Heritage	19	19	17
Citizenship and Immigration Canada	20	-	-

* Name changed from Foreign Affairs and International Trade Canada in 2013.
** Name changed from Human Resources and Skills Development Canada in 2013.
*** Name changed from Indian and Northern Affairs Canada in 2011.